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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,393	01/31/2001	Gregory Warren Goodknight	2705-155	4235
20575	7590	11/28/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			MILLS, DONALD L	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,393

Applicant(s)

GOODKNIGHT, GREGORY
WARREN

Examiner

Donald L. Mills

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 22-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 22 and 27, the claims specify *sending the packet data stream to the other network device, if the network device determines that the other network device is a packet device that can receive packet data* (For example, see claim 22, lines 12-13.) However, the converter acts to convert the packet data stream to an altered data stream (For example, see claim 22, lines 2-4.) Since the converter has already converted the packet data stream to the altered data stream, it would not be possible to transmit the packet data stream in its original format. Therefore, the Examiner gives no weight to the limitation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 22-25, 27, and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Bhagavath et al. (US 6,374,288 B1), hereinafter referred to as Bhagavath.

Regarding claims 22 and 27, Bhagavath discloses digital subscriber line system and method, which comprises:

A converter to receive a packet data stream intended for a packet domain and to convert the packet data stream into an altered data stream intended for transmission through a public switched telephone network; and (Referring to Figures 1-2F, customer xDSL modem 102 receives TCP/IP/Ethernet data packets from the customer, which must be converted to xDSL format for transmission to the Digital Subscriber Line Access Multiplexer (DSLAM) 103 located at a telephone company central office (PSTN) to the Internet network 120. See column 5, lines 60-67; column 6, lines 1-5; column 7, lines 24-35; and Table 1;) and

A controller operable to:

Establish a connection through the public switched telephone network with at least one other network device using the altered data stream (Referring to Figures 1-2F, the customer xDSL modem 102 (converter) negotiates handshake (establishes a connection through the PSTN) start up procedures with the platform xDSL modem 104(X). See column 7, lines 24-30;);

Send signals through the converter in the altered data stream identifying the network device as a packet device that can receive packet data (Referring to Figures 1-2F, the customer xDSL modem 102 (converter) negotiates handshake (signals in the

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altered data stream identifying the network device) start up procedures with the platform xDSL modem 104(X). See column 7, lines 24-30;)

Determine, using signals received from one of the other network devices, whether the other network device is a packet device that can receive packet data (Referring to Figures 1-2F, the handshake start up procedure responses from the platform xDSL modem 104(X), part of server platform 100 (the at least one other network device) connected to the central office (PSTN), determines whether a session between the customer modem (network device which converts between the altered data stream and packet data stream) and platform modems exists. By definition, the handshake procedure is utilized to identify and verify communication with compatible devices. See column 7, lines 24-35;)

Send the altered data stream to the other network device, if the network device determines that the other network device is not a packet device and cannot receive packet data (Referring to Figures 1-2F, customer xDSL modem 102 receives TCP/IP/Ethernet data packets from the customer, which must be converted to and from xDSL format for transmission to and reception from the Digital Subscriber Line Access Multiplexer (DSLAM) 103 located at a telephone company central office (PSTN) to the Internet network 120. See column 5, lines 60-67; column 6, lines 1-5; column 7, lines 24-35; and Table 1.)

Regarding claim 23, Bhagavath discloses *the network device as a voice gateway* (Referring to Figures 1-2F, customer xDSL modem 102 (logically equivalent to a gateway) receives voice data from the customer, which must be converted to xDSL format for

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transmission to the Digital Subscriber Line Access Multiplexer (DSLAM) 103 located at a telephone company central office the Internet network 120. See column 5, lines 60-67; column 6, lines 1-5; column 7, lines 24-35; and Table 1.)

Regarding claim 24, Bhagavath discloses *the packet data stream further comprising coded voice or data* (Referring to Figures 1-2F, customer xDSL modem 102 encodes voice data from the customer. See column 5, lines 60-67; column 6, lines 1-5; column 7, lines 24-35; and Table 1.)

Regarding claims 25 and 29, Bhagavath discloses *the converter further comprising a voice coder/decoder or a modem* (Referring to Figures 1-2F, customer xDSL modem 102 encodes/decodes voice data from and to the customer. See column 5, lines 60-67; column 6, lines 1-5; column 7, lines 24-35; and Table 1.)

Regarding claim 30, Bhagavath discloses *gathering information on the at least one other network device and storing the information for future use in identifying the other network device as a packet device* (Referring to Figure 3A, the bit rate tables 202(A) and 204(X) of available rates for the customer modem and the platform modem are stored. See column 8, lines 40-42.)

Regarding claim 31, Bhagavath discloses *accessing a storage of known network devices based upon the signals received from the other device; locating information about the other network device; and using that information in determining whether the other device is a packet device* (Referring to Figure 3B, the bit rate tables 202(A) and 204(X) of available rates for the customer modem and the platform modem are stored and utilized when a higher rate is requested. See column 8, lines 40-42 and 47-50.)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhagavath (US 6,374,288 B1) in view of Sebestyen (US 5,847,752).

Regarding claims 26 and 28 as explained above in the rejection statement of claims 22 and 27; Bhagavath discloses all of the claim limitations of claims 22 and 27 (parent claims).

Bhagavath does not disclose *the controller utilizing ITU V.8 protocols, or robbed-bit signaling to identify the network device as a packet device.*

Sebestyen teaches a method for call setup and control of video-telephone communication utilizing the ITU-T V.8 signaling protocol (See column 10, lines 19-24.) Bhagavath teaches a voice-over-IP telephony which utilizes call independent signaling (See Figures 1-2F and Abstract.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the video-telephone communication utilizing ITU-T V.8 signaling protocol of Sebestyen in the system of Bhagavath. One of ordinary skill in the art would have been motivated to do so in order to comply with the well-known ITU-T V.8 standard.

Response to Arguments

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7. Applicant's arguments with respect to claims 22-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Donald L Mills

DeM

November 19, 2006

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